



**2011 ANNUAL REPORT**

**INVASION OF PRIVACY**

**PART VI of the *CRIMINAL CODE OF CANADA***

The information in this report is derived from Part VI *Criminal Code of Canada* Operational Reports completed by police agencies relating to authorizations and video warrants for which notification, pursuant to s. 196 of the *Criminal Code of Canada*, was given, between January 1, 2011 to December 31, 2011. The years in which the authorizations and video warrants were initially obtained are noted below.

| <b><u>Section 195(2) Criminal Code of Canada</u></b>   | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|--|--------------------|--------------------|---------------------|
| (a) The number of applications made for authorizations/warrants:                                   |                    |                    |                     |
| (ii) s.185   | 5                  | 9                  | 14                  |
| (iii) s.188  | 0                  | 0                  | 0                   |
| (iv) s.487.01  | 0                  | 5                  | 5                   |
| (b) The number of applications made for renewals of authorizations/warrants:                       |                    |                    |                     |
| (i) s.186  | 0                  | 0                  | 0                   |
| (ii) s.487.01  | 0                  | 0                  | 0                   |
| (c) The number of authorizations/warrants granted:   |                    |                    |                     |
| (i) s.186 - original   | 5                  | 9                  | 14                  |
| (ii) s.186 - renewal   | 0                  | 0                  | 0                   |
| (iii) s.188  | 0                  | 0                  | 0                   |
| (iv) s.487.01 - original   | 0                  | 5                  | 5                   |
| (v) s.487.01 - renewal   | 0                  | 0                  | 0                   |
| The number of authorizations/warrants refused:   |                    |                    |                     |
| (i) s.186 - original   | 0                  | 0                  | 0                   |
| (ii) s.186 - renewal   | 0                  | 0                  | 0                   |
| (iii) s.188  | 0                  | 0                  | 0                   |
| (iv) s.487.01 - original   | 0                  | 0                  | 0                   |
| (v) s.487.01 - renewal   | 0                  | 0                  | 0                   |
| The number of authorizations/warrants granted, which were granted subject to terms and conditions: |                    |                    |                     |
| (i) s.186 - original   | 5                  | 9                  | 14                  |
| (ii) s.186 - renewal   | 0                  | 0                  | 0                   |
| (iii) s.188  | 0                  | 0                  | 0                   |
| (iv) s.487.01 - original   | 0                  | 5                  | 5                   |
| (v) s.487.01 - renewal   | 0                  | 0                  | 0                   |

| <b><u>Section 195(2) Criminal Code of Canada – cont'd</u></b> | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|---|--------------------|--------------------|---------------------|
|---|--------------------|--------------------|---------------------|

|   |         |         |         |
|---|---------|---------|---------|
| (d) The number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of British Columbia in respect of:<br>(Incomplete; some investigations are still ongoing)  |         |         |         |
| (i) an offence specified in the authorization/warrant   | 5       | 9       | 14      |
| (ii) an offence other than an offence specified in the authorization/warrant, but in respect of which an authorization/warrant may be given   | 1       | 0       | 0       |
| (iii) an offence in respect of which an authorization/warrant may not be given  | 0       | 0       | 0       |
| (e) The number of persons not identified in an authorization/warrant against whom proceedings were commenced at the instance of the Attorney General of British Columbia, and whose commission or alleged commission of the offence became known to a peace officer as a result of an interception of a private communication under an authorization, in respect of:<br>(Incomplete; some investigations are still ongoing) |         |         |         |
| (i) an offence specified in such an authorization/warrant   | 0       | 0       | 0       |
| (ii) an offence other than an offence specified in the authorization/warrant, but in respect of which an authorization/warrant may be given   | 0       | 0       | 0       |
| (iii) an offence other than an offence specified in such an authorization/warrant, and for which no such authorization/warrant may be given   | 0       | 0       | 0       |
| (f) The average period for which authorizations/warrants were given and for which renewals were granted:  |         |         |         |
| (ii) s.186  | 60 days | 60 days | 60 days |
| (iii) s.188   | n/a     | n/a     | n/a     |
| (iv) s.487.01   | 60 days | 60 days | 60 days |

| <b><u>Section 195(2) Criminal Code of Canada – cont'd</u></b>                                  | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|--|--------------------|--------------------|---------------------|
| (g) The number of authorizations/warrants that, by virtue of one or more renewals, were valid: |                    |                    |                     |
| (i) for more than 60 days  | 0                  | 0                  | 0                   |
| (ii) for more than 90 days   | 0                  | 0                  | 0                   |
| (iii) for more than 180 days   | 0                  | 0                  | 0                   |
| (iv) for more than 240 days  | 0                  | 0                  | 0                   |

|  |    |     |     |
|--|----|-----|-----|
| (h) The number of notifications given, pursuant to s.196 (158 delivered, 64 undelivered) | 33 | 189 | 222 |
|--|----|-----|-----|

(i) The offences in respect of which authorizations/warrants were given, specifying the number of authorizations/warrants given in respect of each of those offences:

| <b><u>Section</u></b> | <b><u>Type of Offence</u></b>     |   |    |    |
|-----------------------|-----------------------------------|---|----|----|
| 235                   | Murder                            | 2 | 11 | 13 |
| 239(1)(a)             | Attempt Murder                    | 1 | 3  | 4  |
| 240                   | Accessory After the Fact (Murder) | 1 | 2  | 3  |
| 279                   | Kidnapping                        | 2 | 0  | 2  |
| 346                   | Extortion                         | 2 | 0  | 2  |
| 465                   | Conspiracy                        | 6 | 10 | 16 |

| <b><u>Section 195(2) Criminal Code of Canada – cont'd</u></b> | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|---|--------------------|--------------------|---------------------|
|---|--------------------|--------------------|---------------------|

(j) A description of all classes and places specified in authorizations/warrants and the number of authorizations/warrants in which each of those classes of places was specified:  
(Incomplete, as not all Operational Reports have been received from police agencies)

|   |    |    |    |
|---|----|----|----|
| (i) Permanent Residence                               | 12 | 17 | 29 |
| (ii) Temporary Residence                              | 3  | 6  | 9  |
| (iii) Commercial premises                             | 1  | 2  | 3  |
| (iv) Vehicles   | 6  | 11 | 17 |
| (v) Cellular Phones / Blackberry Devices              | 9  | 25 | 34 |
| (vi) Other (includes body packs, internet, and other) | 37 | 54 | 91 |

| <b><u>Section 195(2) Criminal Code of Canada – cont'd</u></b>   | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|---|--------------------|--------------------|---------------------|
| (k) A general description of all classes and places specified in authorizations/warrant and the number of authorizations/warrants in which each of those classes of places was specified:<br>(Incomplete; some investigations are still ongoing)  |                    |                    |                     |
| (i) Telecommunications (includes landline, cellular, Blackberry, pager)   | 42                 | 62                 | 104                 |
| (ii) Microphone   | 30                 | 66                 | 96                  |
| (iii) Video   | 4                  | 14                 | 18                  |
| (iv) Internet   | 0                  | 0                  | 0                   |
| (v) Other (includes Body packs)   | 12                 | 8                  | 20                  |
| (l) The number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization/warrant<br>(Incomplete; some investigations are still ongoing)  | u/k                | u/k                | u/k                 |
| (m) The number of criminal proceedings commenced at the instance of the Attorney General of British Columbia: (Incomplete; some investigations are still ongoing)   |                    |                    |                     |
| (i) in which private communications obtained by interception under an authorization/warrant were adduced in evidence  | 3                  | 9                  | 12                  |
| (ii) the number of those proceedings that resulted in a conviction  | 0                  | 0                  | 0                   |
| (n) The number of criminal investigations in which information obtained as a result of the interception of a private communication under an authorization/warrant was used, although the private communication was not adduced in evidence in criminal proceedings commenced at the instance of the Attorney General of British Columbia as a result of the investigation<br>(Incomplete; some legal proceedings are still ongoing) | 0                  | 0                  | 0                   |

## **Section 195(3) Criminal Code of Canada**

| <b>Other information</b>  | <b><u>2010</u></b> | <b><u>2011</u></b> | <b><u>Total</u></b> |
|---|--------------------|--------------------|---------------------|
| (a) The number of prosecutions commenced against officers or Servants of Her Majesty in right of Canada or members of the Canadian Forces for offences under Section 184 or Section 193 | 0                  | 0                  | 0                   |

### **General Assessment**

Interception of private communications pursuant to the provisions of Part VI of the *Criminal Code of Canada* is still proving to be an essential element in combating serious crime. Often the police obtain information through the use of wiretapping that they could not have received by any other means. New information may also trigger additional investigations. Due to the serious nature of invasions of privacy, there are statutory safeguards to ensure that abuses do not take place. Generally, the interception of private communications must only be done with the authorization of a Justice of the Supreme Court. When the police require an authorization, a designated Crown Counsel reviews the application to ensure it complies with the appropriate laws. (Designated senior police officers may in cases of emergencies directly apply to the Courts for an authorization.) The application is then brought before a Justice or Judge, who will grant the authorization if it is in the best interests of the administration of justice and the application meets other criteria, as set out in Part VI of the *Criminal Code of Canada*. The authorizations are valid for a specific amount of time, and must be renewed by a Justice if they are required for a longer period of time. The application process is complex and time-consuming, but is necessary to ensure that an individual's right to privacy is not breached without cause or appropriate authorization.

## Appendix A

Section 195(1)(a) requires that the agents who made application for an authorization or a video warrant, pursuant to sections 185 and 487.01 of the *Criminal Code of Canada*, be named in the Annual Report. They are as follows:

Melissa Gillespie

Peter Hogg

John Labossiere

Andrew MacDonald

Teresa Mitchell-Banks

Marion Paruk

Norman E. Yates

## **Appendix B**

Section 195(1)(a) requires that the peace officers who made application under urgent circumstances for an authorization, pursuant to s. 188 of the *Criminal Code of Canada*, be named in the Annual Report. They are as follows:

None